88-611

Supreme Court, U.S.
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CLERK

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1988

TIMOTHY SCOTT ROMAN
Petitioner,

v.

SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES
Respondent

THE PEOPLE OF THE STATE OF CALIFORNIA, BY THEIR ATTORNEY, IRA REINER, THE DISTRICT ATTORNEY FOR THE COUNTY OF LOS ANGELES
Real Party in Interest.

APPENDIX B TO: PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF CALIFORNIA

TIMOTHY SCOTT ROMAN
(PRISONER 8875112/Hall of Justice)
In propria persona
c/o CHESTER LEO SMITH
12301 Wilshire Blvd. #303
Los Angeles, CA 90025
(213) 476-6486

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NIDDK Fact Sheet

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service
National Institute of Health
NIH Publication No. 86-2793
May 1986

HUMAN GROWTH HORMONE AND CREUTZFELDT-JAKOB DISEASE

Why was the distribution of Human growth hormone made from human pituitary glands stopped?

In late February and early April of 1985, Government health officials were notified that first one, and then two more men in their twenties and mid-thirties who had been treated years before with human growth hormone (hGH) had died. Before their deaths, the three men had symptoms of a neurologic disorder called Creutzfeldt-Jakob disease (CJD). Pathologists confirmed this diagnosis in

all three cases by careful microscopic examination of brain tissue from the men.

All three men had received hormone through the National Hormone and Pituitary Program or NHPP. The NHPP is a program funded by the ... (NIDDK), a part of the Federal Government's National Institutes of Health (NIH). In the early sixties, the NHPP was set up to provide a central coordination center for the collection of pituitary glands removed at autopsy and for the distribution of hGH and other hormones extracted from these glands. An estimated total of approximately 10,000 patients have been treated with the NHPP-distributed growth hormone. After reports of three deaths from CJD in this patient group it was virtually certain that the men who died

had been exposed to CJD in growth hormone, and the NHPP stopped distribution of the hormone . . .

What is Creutzfeldt-Jakob disease?

Creutzfeldt-Jakob disease or CJD is a nervous system disease. It is transmitted by a particle similar to a virus. This particle, or infectious "agent," is different from the viruses most of us are familiar with. In fact, it has not yet been isolated and characterized. Unlike most "conventional" viruses, a person exposed to the CJD agent may harbor the agent for many years before becoming ill. For that reason, diseases like CJD are called "slow-virus" diseases.

What are the effects of CJD?

. . . . The following symptoms are

among those that may be seen in CJD. Changes in an affected person's behavior and mental capacity occur that may include erratic or aggressive behavior, progressive memory loss and confusion . . . . **CJD is always fatal.**

Is there any treatment for CJD?

There is no treatment that will cure or slow the progress of CJD.

Why is there any reason to believe that CJD is associated with growth hormone?

CJD is extremely rare. Worldwide, there is about one case per year per million population, and nearly all of these cases are in older individuals. Prior to the reports of CJD connected with growth hormone, there had been only 9 cases of the disease ever reported in

patients younger than 30 years old.

Because CJD is so rare in younger people, the chances of CJD occurring by coincidence in 1 year in 3 out of 10,000 individuals who received growth hormone are vanishingly small (1 in 1 trillion) .... Pituitary glands yield only small amounts of growth hormone. Hundreds or thousands of glands are needed to make one batch of hormone ....

Is there a diagnostic test for CJD?

No.

. . . . . .

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POTENTIAL EPIDEMIC OF CREUTZFELDT-JAKOB DISEASE FROM HUMAN GROWTH HORMONE THERAPY

Paul Brown, M.D.; Carleton Gajdusek, M.D:
C.J. Gibbs, Jr., M.D; and David M. Aser, M.D.

A DECADE after the demonstration that Creutzfeldt-Jakob disease could be accidentially transmitted from one person to another during brain or eye surgery, iatrogenic Creutfeldt-Jakob disease has reappeared as a result of earlier therapy with human growth hormone, with the ominous possiblity of a burgeoning epidemic.

Within just a few months, three young adults in the United States have died from the disease, confirmed neuropathologically in two patients and clinically detected but unconfirmed in one, an additional neuropathologically

confirmed case has been identified in Great Britain . . . .

Creutzfeldt-Jakob disease has a worldwide yearly incidence of about one case per million population in countries where physicians are fully aware of the diagnosis and where it has been vigorously sought. However, only nine previous cases in patients under thirty years of age are known among more than three thousand worldwide cases either reported in the literature or referred to us for experimental transmission studies and three of these cases were iatrogenic. The age-specific mortality rate for Creutzfeldt-Jacob disease in the population under forty years of age is only 0.01 case per million . . . .

Experimental assessment of the level

of infectivity likely to be present in lots of human growth hormone already produced is also in progress. The manufacturing protocols used to produce the hormone are being duplicated with inclusion of known amounts of Creutzfeldt-Jakob disease virus, and the end product is being inoculated into thousands of laboratory animals . . . .

We are once again dramatically reminded that human tissues are a source of infectious disease, and that any therapeutic transfer of tissue from one person to another carries an unavoidable risk of transferring the infection . . . .

Doctor D. Carleton Gajdusek is one of the authors of this article. He is a Nobel Laureate.

INTRODUCTION

This is the seventh report of the Interagency Coordinating Committee on Human Growth Hormone and Creutzfeldt-Jakob Disease, which was established on May 29, 1985 . . . . The Committee has sought to pursue the goals of the Public Health Service, as outlined in the first report, related to the occurrence of Creutzfeldt-Jakob Disease (CJD) in recipients of human growth hormone (hGH) from the National Hormone and Pituitary Program (NIHPP) . . . .

Agency	
National Institute of Diabetes and Digestive and Kidney Disease	
Representative	
Dr. Phillip Gordon, Chairman	
Dr. Pierre Renault	
Dr. Ernest Johnson	
Dr. Judith Fradkin	
National Institute of Neurological and Communicative Disorders and Stroke	
Representative	
Dr. Paul Brown	
Dr. C.J. Gibbs, Jr.	
National Institute of Child Health and Human Development	
Representative	
Dr. James Mills	
Dr. Gilman Grave	
Centers for Disease Control	
Representative	
Dr. Mary Guinan	
Food and Drug Administration	
Representative	
Dr. James Bilstad	
Dr. Paul Parkman	

The Epidemiology Study

The purpose of the Epidemiology Study is to identify the cohort of recipients of NHPP growth hormone and conduct periodic surveillance of each patient to ascertain health status over the course of several years. The contract for the Epidemiology Study is funded jointly by NIDDK and the National Institute of Child Health and Human Development. The project officer is from the Centers for Disease Control; co-project officers are from the NIH, the CDC, and the FDA. The contractor is Westat, Inc. . . . .

Phase I: The purpose of Phase I is to conduct a rapid response study using the National Hormone and Pituitary Program and the National Death Index data sources

to define more precisely the study cohort and determine the number of deaths, by each cause, and the ratio of deaths, which have occurred in recipients of hGH.

Phase II: The focus of Phase II is to develop the study forms, data collection instruments, and analytic procedures for Phase III.

Phase III: The objectives of Phase III are to determine the incidence of CJD in the hGH patient cohort, to determine the asssociation of CJD with specific lots of hGH, to develop information on other important medical issues relevant to patients with hypopituitarism, and to determine other important long-term results of hGH treatment including ultimate height and social development.

Phase IV: During Phase IV, patients

or their proxies (a patient, spouse, etc.) will be contacted to determine if any symptoms of CJD develop after the Phase III interview . . . .

Phase III of the study began in January 1988 . . . .

Blood, Tissue, or Organ Donations by nGH Recipients . . . .

On September 14, 1987, NIH convened a meeting to bring together representatives of the same three blood banking organizations, a virologist in the National Institute of Neurological and Communicative Disorders and Stroke, and officials from OASH, FDA, CDC, and FIDDK. The decision was made that pituitary hGH recipients should be excluded from blood donation. Blood banking and FDA officials made plans for

a follow-up meeting to determine how this recommendation should be carried out.

. . . .

Following is the approach agreed upon . . . .

Update the fact sheet to include an appropriately phrased advisory that nGH recipients should not be blood or tissue donors . . . .

Provide information ... to the endocrinologists who treated patients with nGH. . . .

Assemble a panel of endocrinologists who would be able to counsel people ... after receiving the letter and fact sheet. . . .

At this time the volume and nature of the response from the parents and patients regarding blood donations are unpredictable. For some patients and families, the letter advising against blood and tissue donations may be the first time they have heard of the risk of CJD related to receiving growth hormone

. . . .

Tab I contains a review article on iatrogenic CJD which was written by Dr. Elizabeth Rappaport . . . .

IATROGENIC CREUTZFELDT-JAKOB DISEASE

Elizabeth B. Rappaport, M.D.

[Former FDA ... medical officer ...]

Creutzfeldt-Jacob disease (CJD) is a rare, transmissable, fatal neurodegenerative disorder that occurs primarily in people aged over fifty years. The CJD pathogen is resistant to chemical and physical methods commonly used for decontamination and sterilization. The mode of transmission of naturally occurring CJD is not understood. A small fraction of cases are familial, but familial transmission does not appear to be an important source of infection with the agent. There is little evidence that family members or spouses of affected persons are at increased risk of developing CJD.

However, iatrogenic transmissions of CJD are well documented. Several patients have developed CJD following surgical procedures. One received a corneal transplant from an affected donor, and two others were exposed to intracranial electrodes that had previously been used in a CJD patient. Two cases have been linked to a neurosurgical operating theater in which a patient with known CJD had had burr holes for ventriculography several weeks earlier. Recently, CJD was diagnosed in a patient who had received a **dura mater** graft nineteen months before the onset of symptoms. In addition to these documented iatrogenic events associated with neural or ocular tissue, CJD has been transmitted to laboratory animals from the blood and urine of

affected patients. Thus, blood and urine could also be vehicles for person-to-person transmission of CJD.

Scrapie is a neurodegenerative disorder of sheep that is similar to CJD in humans . . . . CJD has been transmitted by neural and non-nueral tissue of patients clinically ill with CJD. By analogy to the experience with scrapie as well as to the observations in laboratory animals deliberately infected with CJD, it can be inferred that blood and tissues of affected humans may be capable of transmitting the agent of CJD before the development of frank manifestations of the disease. If so, the risk of iatrogenic spread of CJD would be proportional to the prevalence of

potentially infectious people in the population. This prevalence can be estimated as the product of the annual incidence of CJD and the duration of infectivity. Since CJD is uniformly fatal, annual mortality may be taken as an estimate of the annual incidence. In the United States, one-hundred and forty-two deaths from CJD were recorded in 1980. The duration of CJD infectivity is not known, but may be considerably longer than the duration of clinical disease. If one assumes, for example, a total of two years of infectivity, then the prevalence in the United States of potentially "infectious" individuals would be 284 (142 CJD cases per year x 2 years duration of infectivity). At the other

extreme, if one assumes thirty years infectivity, then the prevalence of potentially infectious individuals would be approximately 4,200 cases. If one takes an intermediate figure of ten years for the duration of CJD infectivity, the prevalence of potentially infectious individuals would be approximately 1,400.

In the United States, approximately eight percent of the population undergoes surgery annually. Using the intermediate figure of 1,400 potentially infectious people about 100 such persons would have a surgical procedure each year.

Operating rooms or surgical instruments used for neurosurgical or general surgical procedures in patients harboring the CJD agent may pose a risk to other patients subsequently exposed to

the same operating rooms or instruments. Epidemiologic support for this mode of transmisssion is provided by a case-control study of sixty CJD patients reported in Japan between 1975 and 1977. . . . . In view of the evidence that routine methods of decontamination do not eliminate the CJD agent from the hospital environment, **the major defense against significant iatrogenic spread may be the low prevalence of the disorder.**

However, between November 1984 and April 1985, three young men who had received human cadaver pituitary-derived growth hormone (pit-hGH) during childhood died of CJD. Recently, CJD has been documented in two additional patients who received pit-hGH . . . . In all these cases, pit-hGH is considered to have been

the vehicle for transmission of CJD. A estimated 10,000 U.S. children received pit-hGH between 1963 and 1985. Neither the prevalence of degenerative neurologic disease in pit-hGH recipients nor the risk that these patients may develop CJD can yet be estimated. **In practice, however, the prevalence of potentially infectious persons in the United States may have been increased by as much as 10,000. Depending on the duration of CJD infectivity, the potential increase in the prevalence of persons harboring the transmissible agent of CJD could be between two-fold and thirty-fold.** For the purposes of developing public health policy, it would be prudent to consider any patient exposed to pit-hGH as potentially harboring the CJD agent.

During the past ten years, the medical community, particularly neurologists, neurosurgeons, pathologists, and laboratory workers, have been concerned about iatrogenic spread of CJD. Guidelines for the precautions to be taken with patients known or suspected to have CJD were published in 1977 and amplified in 1982, 1984, and 1986. It is not known to what extent procedures to remove or inactivate the CJD agent have been incorporated into routine hospital practice.

Several recommendations follow:

1. The medical community should be reminded of the potential infectivity of tissue and body fluid obtained from patients with CJD and should be aware of the potential significant increase in the

prevalence of people who may be haboring the CJD pathogen.

2. Routine review procedures for decontamination and sterilization of surgical instruments and operating suites should be reviewed to determine whether they comply with current recommendations for inactivation of the CJD agent. Responsible hospital personnel should monitor compliance with these procedures. Because of CJD's long latency, survellance for a disease outbreak would not be effective in detecting failures in decontamination practices.

3. Epidemiologic studies of patients exposed to pit-hGH should include the surgical procedures performed in these patients during or after pit-hGH therapy. Data obtained will improve

estimates of the number of growth hormone recipients who have surgery.

4. Consideration should be given to prohibiting pit-hGH recipients from donating blood, tissue, or organs.

5. Regulations should be developed to minimize the chance of manufacturing biologic products from blood, tissue, or organs from individuals who may harbor the CJD agent.

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